CRS-4

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I. ATOMIC ENERGY COMMISSION

Background. Prior to being abolished in 1974, the AEC had access to confidential funds. Any appropriation act for the AEC could specify portions to be accounted for upon the certification of the Commission. 42 U.S.C. 2017(b) (1970). The amount of confidential funds was generally \$100,000. For example, the Public Works and AEC appropriation for fiscal 1974 provided the AEC with \$100,000 which "may be expended for objects of a confidential nature and in any such case the certificate of the Commission as to the amount of the expenditure and that it is deemed inadvisable to specify the nature thereof shall be deemed a sufficient voucher for the sum therein expressed to have been expended." P.L. 93-97, 87 Stat. 318.

Objections were raised during debate by the House of Representatives on the fiscal 1974 appropriation bill. Rep. Bob Eckhardt offered an amendment to delete the confidential fund for the AEC, prompting the floor managers of the bill to give assurance that the funds could be audited to some extent. Rep. John Rhodes, a member the of/appropriations subcommittee handling the bill, was of the opinion that the Comptroller General "can look behind that certificate to make sure that the matter certified is actually of a confidential nature." Rep. Joe Evins, subcommittee chairman, agreed with that statement. With that understanding Rep. Eckhardt withdrew his amendment. 119 Cong. Rec. H5613 (daily ed., June 28, 1973).

Although the AEC was granted a \$100,000 confidential fund in the fiscal 1974 appropriation bill, an investigation by House Appropriations revealed that the fund was rarely used in recent years. Consequently, the appropriation bill for fiscal 1975 did not include a confidential fund for the AEC. P.L. 93-393, 88 Stat. 782.

Reorganization Act. The Energy Reorganization Act of 1974

(P.L. 93-438) abolished the Atomic Energy Commission. Its military and production activities, and its general basic research activities, were transferred to a new agency called the Energy Research and Development Administration (ERDA). AEC's licensing and related regulatory functions were transferred to a new agency called the Nuclear Regulatory Commission (NRC). The reorganization act does not mention AEC's authority for a confidential fund (22 U.S.C. 2107), but section 104 of the act states that all functions of the AEC shall be transferred or allowed to lapse pursuant to the provisions of the reorganization act. 88 Stat. 1237. It is our understanding that the confidential fund authority is available to ERDA and probably also to NRC.

II. COMMERCE DEPARTMENT

Maritime Administration. For fiscal 1975, the Operations and Training account for the Maritime Administration includes \$2,500 for contingencies for the Superintendent, United States Merchant Marine Academy, "to be expended in his discretion." P.L. 93-433,

88 Stat. 1199. Budget officials in the Administration inform us that expenditures for contingencies are documented with receipts and vouchers, although the General Accounting Office has not audited the expenditures since Jánuary 1960.

III. DEFENSE DEPARTMENT

In recent years five separate accounts in the Defense Department have been granted confidential funds: four Operation and Maintenance Accounts (Army, Navy, Air Force, and Defense Agencies) and Contingencies, Defense.

Contingencies, Defense. For both fiscal 1973 and fiscal 1974, the amount of \$5,000,000 in confidential funds was provided for Contingencies, Defense. P.L. 92-570, 86 Stat. 1190; P.L. 93-238, 87 Stat. 1032. In each case the appropriation language was identical: "For emergencies and extraordinary expenses arising in the Department of Defense, to be expended on the approval or authority of the Secretary of Defense and such expenses may be accounted for solely on his certificate that the expenditures were necessary for confidential military purposes; \$5,000,000." Since legislation did not exist for that language, it was subject to a point of order. See S. Rept. 93-617, at 27.

The defense appropriation act for fiscal 1973 required a quarterly report to Congress on all disbursements from Contingencies, Defense.

Rep. Bob Eckhardt made points of order against the confidential fund and the reporting procedure; neither was authorized under existing law. The Chair sustained his position, noting that the proposed language did contain legislation, "since it requires a report and imposes additional duties." 119 Cong. Rec. H10409 (daily ed. Nov. 30, 1973). The conferees included \$5 million for the fund, but deleted the reporting requirement. P.L. 93-238, 87 Stat. 1032. The reporting requirement was also deleted from the appropriation act for fiscal 1975. P.L. 93-437, 88 Stat. 1218.

In 1974, Rep. Eckhardt again raised a point of order against
the Contingencies, Defense account. He cited two grounds: it constituted
legislation in an appropriation bill, and it prohibited the Comptroller
General from carrying out his auditing responsibilities under the
Budget and Accounting Act of 1921. Rep. Mahon, floor manager of the
bill, conceded the point of order. The Chair then sustained it. 120
Cong. Rec. H7740 (daily ed. Aug. 6, 1974). The Senate restored the
\$5 million, rewriting the language to make it permissible for the
Comptroller General to audit the appropriation. H. Rept. 93-1363,
at 19. The two Houses compromised on a dollar amount of \$2,500,000
and softened the language. Instead of accounting for expenses "solely"
on the certificate of the Defense Secretary, the new language (for fiscal
1975) reads: "For emergency and extraordinary expenses arising in
the Department of Defense, to be expended on the approval or authority
of the Secretary of Defense, and payments may be made on his certificate

of necessity for confidential military purposes; \$2,500,000." P.L. 93-437, 88 Stat. 1218. We understand from discussions with staff in the House Appropriations Committee that the purpose of the new language was to encourage the General Accounting Office to conduct some type of audit. As of March 17, 1975, GAO informed us that there are no ongoing audits of Contingencies, Defense.

O&M Accounts. Confidential funds are included in the following Operation and Maintenance accounts for the Defense Department: Army, Navy, Air Force, and Defense Agencies. For fiscal 1975 the amounts are as follows: O&M/Army, \$2,689,000; O&M/Navy, \$3,707,000; O&M/Air Force, \$2,293,000; and O&M/Defense Agencies, \$6,518,000. P.L. 93-437, 88 Stat. 1215-16.

Authorization exists only for the Navy: "Within the limits of appropriations made for the purpose, the Secretary of the Navy may provide for any emergency or any extraordinary expense that arises in the Department of the Navy and that cannot be anticipated or classified. When it is so provided in such an appropriation, the funds may be spent on approval or authority of the Secretary for any purpose he determines to be proper, and such a determination is final and conclusive upon the accounting officers of the United States. The Secretary may certify the amount of any such expenditure that he considers advisable not to specify, and his certificate is a sufficient voucher for the expenditure of that amount." 10 U.S.C. 7202. The three other O&M accounts — Army, Air Force, and Defense Agencies — are subject to

a point of order for being legislation in an appropriation bill. See S. Rept. 93-617, at 27.

In 1973 Rep. Bob Eckhardt raised a point of order against the O&M/Air Force account because it contained \$2,343,000 in confidential funds. The chairman of the Appropriations Committee, George Mahon, pointed out that the language had been changed to make it less subject to a point of order. Whereas the language in the fiscal 1973 appropriation act provided that the determination of the Secretary of the Air Force, regarding confidential funds, would be "final and conclusive upon the accounting officers of the Government," that phrase was deleted in the fiscal 1974 appropriation bill. The amount of \$2,343,000 was to be used for emergencies and extraordinary expenses, to be expended on the approval or authority of the Secretary of the Air Force, "and payment may be made on his certificate of necessity for confidential military purposes." 119 Cong. Rec. H10406 (daily ed. Nov. 30, 1973).

Moreover, the committee report accompanying the fiscal 1974 appropriation bill offered this explanation: "In including the language relating to emergency and extraordinary expenses the Committee has deleted language which had the effect of prohibiting by statute external audits of these expenses. However, the Committee does not intend any substantive change in the customary use of this authority as long as it is consistent with the justifications submitted to the Congress and prior practice." H. Rept. 93-662, at 108. The Chair upheld the Eckhardt point of order. 119 Cong. Rec. H10406 (daily ed. Nov. 30, 1973). The confidential fund for the Air Force was reinserted

by the Senate Appropriations Committee, including the "final and conclusive" language. S. Rept. 93-617, at 27. The conferees agreed to delete those words, but agreed to retain the amount of \$2,343,000 for Air Force confidential funds. H. Rept. 93-741, at 15. The compromise was enacted into law. P.L. 93-238, 87 Stat. 1029.

Rep. Eckhardt's point of order against the confidential fund in the O&M/Defense Agencies account was sustained by the Chair. 119 Cong. Rec. H10406 (daily ed. Nov. 30, 1973). Subsequently the Senate restored the fund, the conferees reached a compromise (the same as in above paragraph), and the amount of \$5,448,000 in confidential funds was made available, to be expended on the approval or authority of the Secretary of Defense, "and payment may be made on his certificate of necessity for confidential military purposes." P.L. 92-238, 87 Stat. 1030

Although the confidential fund in the O&M/Army account was subject to a point of order, no challenge was raised. The conferees agreed to delete language making the Secretary of the Army's determination final and conclusive upon the accounting officers of the Government. H. Rept. No. 93-741, at 12. See also P.L. 93-238, 87 Stat. 1028. Furthermore, even though the phrase "final and conclusive" was authorized for the O&M/Navy account (10 U.S.C. 7202), the conferees agreed to delete that language. H. Rept. No. 93-741, at 13. See P.L. 93-238, 87 Stat. 1028.

GAO informed us on March 17, 1974 that there have been no audits of confidential funds in the four O&M accounts. However, they are singled out as a potential area for audit.

Naval Intelligence. Authority exists for the use of confidential funds by the Navy to obtain information, but to our knowledge this authority is not currently invoked. The language, dating back to 1916: "Expenditures by the Department of the Navy from the appropriation for obtaining information from abroad and at home shall be accounted for specifically, if, in the judgment of the Secretary of the Navy, they may be made public, and he shall make a certificate of the amount of such expenditures as he may think it advisable not to specify, and every such certificate shall be deemed a sufficient voucher for the sum therein expressed to have been expended." 31 U.S.C. 108. See 39 Stat. 557 (1916).

IV. DISTRICT OF COLUMBIA

Background. The D.C. appropriation bill for fiscal 1974 contained a \$200,000 confidential fund for the Chief of Police. The statutory language does not indicate that the funds were of a confidential nature; it simply states that "the limitation on expenditure of funds by the Chief of Police for prevention and detection of crime during the current fiscal year shall be \$200,000." P.L. 92-91, 87 Stat. 310, sec. 10.

A cross-reference to an earlier D.C. appropriation bill (enacted April 8, 1960) clarifies the confidentiality. That statute provided \$35,000 to be "exclusively available for expenditure by the Chief of Police for prevention and detection of crime under his certificate approved by the Commissioners, and every such certificate shall be

deemed a sufficient voucher for the sum therein expressed to have been expended." 74 Stat. 20. The same appropriation act provided a \$12,500 confidential fund for the D.C. Commissioners. 74 Stat. 18.

Subsequent D.C. appropriation acts included confidential funds for other D.C. officials, but in smaller amounts. The bill for fiscal 1969 provided confidential accounts of \$2,500 each for the D.C. Commissioner and the Chairman of the City Council (82 Stat. 695), and \$1,000 each for the Superintendent of Schools, the President of the Federal City College, and the President of the Washington Technical Institute (82 Stat. 696). The D.C. appropriation bill for fiscal 1971 increased the confidential fund for the Chief of Police to \$100,000. 84 Stat. 437. That fund was increased to \$200,000 the following year. 85 Stat. 687.

Parliamentary Challenges. The pattern over that period of time had been to include confidential funds in the D.C. appropriation bill without the backing of substantive legislation. The funds were therefore subject to a point of order, as noted in hearings published by the House Appropriations Committee on the fiscal 1974 appropriation bill. The following items were among those listed as subject to a point of order: confidential funds for the Commissioner and the chairman of the City Council, confidential funds for the presidents of the colleges and the superintendent of public schools, and a confidential fund for the police chief. District of Columbia Appropriations

for 1974 (Part 1), hearings before the House Committee on Appropriations, 93rd Cong., 1st sess., pp. 212-13 (1973).

When the bill reached the House floor, on June 18, 1973, Rep.

H.R. Gross raised a point of order against the confidential funds

(\$2,500 each) for the Commissioner and the chairman of the City Council.

The manager of the bill, Rep. William H. Natcher, conceded the point the of order and/two items were struck from the bill. 119 Cong. Rec.

H4869 (daily ed. June 18, 1973). The four confidential funds for Federal City College, President of the Superintendent of Schools, President of the/Washington Technical

Institute, and President of District of Columbia Teachers College

(\$1,000 each) were stricken by the Senate. 119 Cong. Rec. S14082

(daily ed. July 19, 1973). The House conferees concurred with those deletions. H. Rept. 93-416, 93rd Cong., 1st sess., p. 6 (1973).

That left only the \$200,000 confidential fund the Chief of Police in the appropriation bill enacted into law (P.L. 93-91, 87 Stat. 310, sec. 10).

Authorization. At the same time that the D.C. confidential funds were being stricken from the appropriation bill, Congress was in process of supplying substantive legislation to avoid future points of order. The authorization bill for the District of Columbia, enacted October 26, 1973 (P.L. 93-140), authorized seven confidential funds.

Section 9 of the act provides that the Chief of Police of the Metropolitan Police Department is authorized, with the approval of the Commissioner of the District of Columbia "and within the limits of appropriations therefor, to make expenditures for the prevention and

detection of crime under his certificate. The certificate of the Chief of Police for such expenditures shall be deemed a sufficient voucher for the sum therein expressed to have been expended." 87 Stat. 505. Section 26 of the act authorized the Commissioner of the District of Columbia, the Chairman of the District of Columbia Council, the Superintendent of Schools, the President of the Federal City College, the President of the Washington Technical Institute, and the President of the District of Columbia Teachers College to "provide for the expenditure, within the limits of specified annual appropriations, of funds for appropriate purposes related to their official capacity as they may respectively deem necessary. Their determination thereof shall be final and conclusive, and their certificate shall be sufficient voucher for the expenditure of appropriations made pursuant to this section." 87 Stat. 509.

The D.C. appropriation act for fiscal 1975 (P.L. 93-405) provided the following confidential funds: \$2,500 each for the Commissioner and the Chairman of the District of Columbia Council (88 Stat. 823), \$200,000 for the Chief of Police (88 Stat. 824), and \$1,000 each for the Superintendent of Schools, the President of Federal City College, and \$1,000 for the President of Washington Technical Institute (88 Stat. 824). The language in the appropriation act does not specifically say that the funds may be spent with certificates rather than vouchers. However, the language parallels that used in the authorization act (P.L. 93-140), and a call to the staff of the House Appropriations Committee confirmed that those funds may be spent in a confidential manner.

We know of no public justification to explain the need for confidential funds for the Commissioner, Council Chairman, or education officials. We understand from House Appropriations staff that the funds are used basically for entertainment purposes. In the case of the confidential fund for the Police Chief, this has been justified in public hearings. In 1973 the D.C. Government advised the Senate Appropriations Committee that the fund was used for expenses involved in investigating such activities as narcotics traffic and gambling:

"it is cash funds for the use of undercover men in making purchases of narcotics as an example, or some of the funds go to things such as men engaging in gambling investigations, who we have to require to go to various restaurants and bars, and appear to be customers.

District of Columbia Appropriations for Fiscal Year 1974 (Part 1), hearings before the Senate Committee on Appropriations, 93rd Cong., 1st Sess., p. 668 (1973).

V. FOREIGN ASSISTANCE

At present, for fiscal 1975, there are no confidential funds in the foreign assistance appropriation act. However, four confidential funds are authorized in substantive legislation. Out of the amounts appropriated each year, certain specified amounts may be spent with certificates rather than vouchers.

<u>President's Special Authority</u>. Section 614 of the Foreign Assistance Act of 1961, as amended, authorizes the President to use

amounts not to exceed \$50,000,000 pursuant to his certification that it is inadvisable to specify the nature of the use of such funds. The certification shall be deemed a sufficient voucher for such amounts. When funds are spent in that manner, the President shall "promptly and fully" inform the Speaker of the House and the chairman and ranking minority member of the Senate Committee on Foreign Relations. 22 U.S.C. 2364(c). The \$50,000,000 figure is a <u>cumulative</u> amount, rather than annual authority. Each use of the authority depletes the amount. If and when the President spends \$50 million by certificate, the authority will be exhausted.

Expenses of a Confidential Nature. Section 636(a)(8) of the Foreign Assistance Act of 1961, as amended, authorizes up to \$50,000 in any fiscal year to be spent for confidential purposes other than entertainment. A certificate of the amount of each such expenditure, the nature of which it is considered inadvisable to specify, shall be made by the head of the agency primarily responsible for administering the program, or such person as he may designate, and every such certificate shall be deemed a sufficient voucher for the amount therein specified. 22 U.S.C. 2396(a)(8).

Inspector General. Foreign Assistance. Section 624(7)(A) of the Foreign Assistance Act of 1961, as amended, authorizes the Inspector General, Foreign Assistance, to make expenditures (not in excess of \$2,000 in any fiscal year) of a confidential nature when he finds that such expenditures are in aid of inspections, audits, or reviews

under that subsection of the Act. A certificate of the amount of each such expenditure, the nature of which it is considered inadvisable to specify, shall be made by the Inspector General, Foreign Assistance, and every such certificate shall be deemed a sufficient voucher for the amount therein specified. 22 U.S.C. 2384(d)(7).

Peace Corps. Section 15(d) of the Peace Corps Act of 1961, as amended, authorizes expenditures (not to exceed \$5,000 in any fiscal year except as may be otherwise provided in an appropriation or other Act) to meet unforeseen emergencies or contingencies arising in the Peace Corps. A certificate of the amount of such expenditure, and a statement that such expenditure was necessary to meet an unforeseen emergency or contingency, made by the Director of the Peace Corps or his designee, shall be deemed a sufficient voucher for the amount therein specified. 22 U.S.C. 2514(d)(7). For fiscal years 1970 through 1974, the use of confidential funds averaged less than \$1,000 a year.

VI. JUSTICE DEPARTMENT

Attorney General. In recent years it has been the practice to provide the Attorney General with a confidential fund of \$30,000. The fund, used for expenses of collecting evidence, is spent under the direction of the Attorney General and accounted for solely on his certificate. The money is included in the account "Salaries and Expenses, General Legal Activities." For example, see P.L. 93-433, 88 Stat. 1192.

on June 18, 1974, Rep. Bob Eckhardt raised a point of order against this confidential fund on the ground that it violated Rule XXI, Clause 2, which provides in part: "Nor shall any provision in any such bill or amendment thereto changing existing law be in order, except such as being germane to the subject matter of the bill retrench expenditures by the reduction of the number and salary of the officers of the United States, by the reduction of the compensation of any person paid out of the Treasury of the United States, or by the reduction of amounts of money covered by the bill..." He maintained that the confidential fund would alter the general law under which the Comptroller General is required to examine and approve expenditures.

120 Cong. Rec. H5218 (daily ed. June 18, 1974).

Rep. John Slack defended the confidential fund, pointing out that it had been included in appropriation acts since 1963. The budget specifications for that year noted that the Justice Department had been handicapped in conducting investigations and obtaining evidence in criminal cases because the legal divisions could not make expenditures for confidential purposes. In particular, the Department wanted access to confidential funds to investigate organized crime and racketeering. But when Rep. Eckhardt pressed for the substantive law which authorized the fund, Rep. Slack conceded the point of order and the Chair sustained it. Id. The fund was restored by the Senate and agreed to by House and Senate conferees. P.L. 93-433, 88 Stat. 1192. See H. Rept. 93-1370, at 5-6.

for the FBI. Therefore, the Comptroller General was required to review expenditures from the \$70,000 fund. When Rep. Slack cited the substantive authority for the fund (28 U.S.C. 537), Rep. Eckhardt maintained that the authority for the Attorney General did not remove the duty on the part of the Comptroller General to examine whether or not the funds were in fact spent for confidential purposes. The Chair ruled that since the substantive authority for the FBI fund was adopted by Congress after the 1921 Act (the fund for the FBI was added in 1966, 80 Stat. 617), the language in the bill did not change existing law. The point of order was overruled. 120 Cong. Rec. H5224-25 (daily ed. June 18, 1974).

Immigration and Naturalization Service. Legislation in 1950...

provided that appropriations for the Immigration and Naturalization

Service may specify a fund for expenses of unforeseen emergencies of
a confidential character, to be expended under the direction of the

Attorney General, who shall make a certificate of the amount of any
such expenditure as he may think it advisable not to specify. Every
such certificate shall be deemed a sufficient voucher for the sum

spent. 64 Stat. 380, sec. 6, codified at 8 U.S.C. 1555 (1970). The
amount appropriated for that purpose is generally \$50,000. For
example, see P.L. 93-433, 88 Stat. 1193.

Drug Enforcement Administration. For a number of years the Bureau of Narcotics and Dangerous Drugs received a confidential fund. In fiscal 1973 it received \$70,000 for miscellaneous and

emergency expenses of enforcement activities, authorized or approved by the Attorney General and to be accounted for solely on his certificate." P.L. 92-544, 86 Stat. 1117. The Bureau was abolished by Reorganization Plan No. 2 of 1973, at which point its functions were transferred to the Drug Enforcement Administration effective July 1, 1973.

Beginning in fiscal 1974 the Drug Enforcement Administration received a confidential fund of \$70,000. P.L. 93-62, 87 Stat. 644.

The appearance of the fund the next year, in the fiscal 1975 appropriation bill, prompted Rep. Eckhardt to offer the following amendment: "Provided that such expenditures to be made under the direction of the Attorney General only and to be accounted for solely on his certificate shall not be made unless the Comptroller General shall be furnished such information relating to such expenditure as he may request and access to all necessary books, documents, papers and records, relating to such expenditure in order that he may determine whether the expenditure was, in fact, of such confidential or other special nature." Rep. Slack made a point of order against the amendment, contending that it was legislation in an appropriation bill.

He was sustained by the Chaîr. 120 Cong. Rec. H5225 (daîly ed.

June 18, 1974).

Rep. Eckhardt thereupon offered another amendment to strike from the bill the DEA confidential fund. After he was recognized to speak on behalf of his amendment, Rep. Slack made a point of order. The Chair stated that the point of order came too late, since Rep. Eckhardt had already been recognized to speak on his amendment. During his remarks, Rep. Eckhardt explained that he supported certain actions that were confidential, but also insisted that the Comptroller General examine the funds to see that they were properly spent. It was important to know whether such expenditures were confidential and legitimate "or expended for illegal wire taps, or for entertainment by that department or other purposes not authorized by any act of Congress."

In opposition to the amendment, Rep. Neal Smith argued that there were a few cases "where enforcement officers simply cannot trust anybody knowing the identity of the one person who is making the buy.. We are dealing with lives here, and if some informer were to be squealed on because two or three extra people found out about it or had a way to find out about it, and he is killed, that is going to dry up that source and other sources like it." Rep. Smith also noted that auditing by the GAO would require an agent to keep a record as to who was paid, to prove that the money was spent as intended: "after that happens, the man's name is then in the record, and his very life is endangered." The Eckhardt amendment was rejected by a voice vote. A demand by Rep. Eckhardt for a recorded vote was refused. 120 Cong. Rec. H5225-27 (daily ed. June 18, 1974).

VII. NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

Research and Program Management. For fiscal 1975 the National Aeronautics and Space Administration received a confidential fund of \$35,000 under the account "Research and Program Management." The money is available for scientific consultations or extraordinary expense, to be expended upon the approval or authority of the Administrator and his determination "shall be final and conclusive." P.L. 93-414, 88 Stat. 1101. The authority is provided each year in the NASA authorization bill, which elaborates somewhat by stating that the Administration's determination "shall be final and conclusive upon the accounting officers of the Government." P.L. 93-316, 88 Stat. 242, sec. 1(f).

VIII. STATE DEPARTMENT

Diplomatic Expenses. Present law, dating back to 1793 (1 Stat. 300), provides that whenever any sum of money has been or shall be issued from the Treasury for the purposes of intercourse or treaty with foreign nations, pursuant to law, the President is authorized to settle annually with the General Accounting Office by making the expenditure public. However, he may also direct the Secretary of State to make a certificate of the amount of such expenditure, as the President thinks advisable not to publish, and every such certificate

shall be deemed a sufficient voucher for the sum expended. 31 U.S.C. 107 (1970). On the basis of that authority, the Department of State appropriation act for fiscal 1975 provided \$2,100,000 in confidential funds for emergencies in the diplomatic and consular service.

P.L. 93-433, 88 Stat. 1188.

IX. TRANSPORTATION DEPARTMENT

<u>U.S. Coast Guard</u>. For fiscal 1973 the U.S. Coast Guard received a fund of \$15,000 to be available "for investigative expenses of a confidential character, to be expended on the authority of the Commandant and his determination shall be final and conclusive upon the accounting officer of the Government." P.L. 92-398, 86 Stat. 581.

When the fund was included in the appropriation bill for fiscal 1974, Rep. Bob Eckhardt offered an amendment to strike the language. He could have made a point of order, since substantive authority was lacking, but preferred to offer his amendment to generate debate on the merits of the fund. He said that "it might have some justification, but certainly any appropriation ought to be subject to the accounting officer of the Government to determine whether the money is being spent in accordance with the legislation; and, if there is no explanation of why there should be some kind of confidential investigation and expenses to cover it, it seems to me this should be stricken from the bill." 119 Cong. Rec. H5018 (daily ed. June 20, 1973).

Rep. John McFall suggested that Rep. Eckhardt have "the same faith in the Coast Guard I do that they are going to use these funds in the proper way." Rep. Eckhardt replied that the Commandant could conduct a confidential investigation without prohibiting a GAO review. The Eckhardt amendment was agreed to by voice vote. Id. at H5019.

X. TREASURY DEPARTMENT

Office of the Secretary. The fiscal 1975 appropriation for the Department of the Treasury contains a \$100,000 confidential fund under the account "Office of the Secretary, Salaries and Expenses." The amount is available for unforeseen emergencies, of a confidential character, to be allocated and expended under the direction of the Secretary and to be accounted for solely on his certificate. P.L. 93-381, 88 Stat. 613. That amount derives from two earlier confidential funds for the Bureau of Customs and the U.S. Secret Service.

Bureau of Customs. In fiscal 1973 the Bureau of Customs received a fund of \$50,000 for unforeseen emergencies of a confidential character to be expended under the direction of the Secretary of the Treasury and accounted for solely on his certificate. P.L. 92-351, 86 Stat. 472. When the bill for fiscal 1974 was reported by House Appropriations, the committee recommended that the confidential funds for the Bureau of Customs and the U.S. Secret Service, together with the Administration's request for a confidential fund for the new Bureau of Alcohol, Tobacco and Firearms, be consolidated to form a single \$100,000 confidential

fund to be controlled and allocated by the Secretary of the Treasury.

H. Rept. 93-399, at 8. That recommendation was incorporated in the appropriation act for fiscal 1974, P.L. 93-143, 87 Stat. 511, and repeated in the appropriation act for fiscal 1975, P.L. 93-381, 88 Stat.

613. The Bureau of Customs was redesignated the "U.S. Customs Service" by Treasury Department Order 165-23 of April 4, 1973, effective August 1, 1973.

U.S. Secret Service. In fiscal 1973 the U.S. Secret Service received a fund of \$50,000 for unforeseen emergencies of a confidential character, to be expended under the direction of the Secretary of the Treasury and accounted for solely on his certificate. P.L. 92-351, 86 Stat. 473. As explained above, that amount was deleted from subsequent appropriation acts in favor of a lump sum of \$100,000 to be disbursed by the Secretary of the Treasury.

XI. WHITE HOUSE OFFICE

In fiscal 1973 the White House received four appropriation accounts containing confidential funds: Compensation of the President; White House Office, Salaries and Expenses; Executive Residence, Operating Expenses; and White House Office, Special Projects. Substantive authority existed only for the first two. An effort in 1974, to supply new authorizing language for confidential funds, failed of enactment.

Compensation of the President. The President receives an annual compensation of \$250,000, including an expense allowance of \$50,000. The latter is to "assist in defraying expenses relating to or resulting from the discharge of his official duties, for which expense allowance no accounting, other than for income tax purposes, shall be made by him." 3 U.S.C. 102.

White House Office, Salaries and Expenses. When this account was reported by House Appropriations for fiscal 1974, it contained \$9.1 million, including "official entertainment expenses of the President, to be accounted for solely on his certificate." Rep. Dingell raised a point of order against several clauses in the appropriation language, including the phrase quoted above. The floor manager, Rep. Steed, conceded that the words "official entertainment expenses of the President, to be accounted for solely on his certificate" were subject to a point of order, as being legislation in an appropriation bill. The Chair ruled that the point of order lay against the whole of the paragraph. 119 Cong. Rec. H7146 (daily ed. Aug. 1, 1973).

Rep. Steed offered new language for the account, deleting many of the objectionable phrases, including the one permitting Presidential certificates for entertainment expenses. To clarify legislative intent, Rep. Dingell reserved a point of order and asked whether the activities covered by the account were subject to audit by GAO and available as matters of public information. Steed replied: "They already are, as far as that is concerned." On the basis of that legislative history, Dingell withdrew his point of order. Id. at H7147. The language

"official entertainment expenses of the President, to be accounted for solely on his certificate," was restored by the Senate and placed in the appropriation act for fiscal 1974. P.L. 93-143, 87 Stat. 516.

The account "White House Office, Salaries and Expenses" received \$16,367,000 for fiscal 1975. P.L. 93-381, 88 Stat. 619. Although the appropriation language does not indicate the presence of confidential funds — either explicitly or by reference to the U.S. Code—\$40,000 may be spent for that purpose. Substantive law provides that there may be expended "for or on account of the traveling expenses of the President of the United States such sum as Congress may from time to time appropriate, not exceeding \$40,000 per annum, such sum when appropriated to be expended in the discretion of the President and accounted for on his certificate solely." 3 U.S.C. 103. That authority, not mentioned during debate on the fiscal 1974 bill, was adopted on June 25, 1948. 62 Stat. 678.

Administration officials have explained that the travel funds are used for those who accompany the President. He travels on an Air Force plane, paid for from the Air Force budget. His staff may have to occupy commercial facilities, pay for food, and other expenses. The travel budget is used for those purposes. Authorization for White House Personnel, hearing before the Senate Post Office and Civil Service Committee, 93rd Cong., 2nd sess., at 14-15 (statement of OMB Director Ash).

In 1974 the Nixon Administration proposed legislation to increase

the amount for travel expenses from \$40,000 to \$100,000. Authorization for Staff Support in the White House Office and for the Executive Duties of the Vice President, hearings before the House Committee on Post Office and Civil Service, 93rd Cong., 2nd Sess., at 3 (sec. 3 of bill). The bill was reported to the House floor with that feature:

"There may be expended for or on account of the traveling expenses of the President of the United States such sum as Congress may from time to time appropriate, not exceeding [\$40,000] \$100,000 per annum, such sum when appropriated to be expended in the discretion of the President and accounted for on his certificate solely." H. Rept. 93-1100, at 27 (sec. 103).

During debate on the bill, Rep. Eckhardt offered an amendment to delete "and accounted for on his certificate solely" and to insert in its place the following: "Provided, That the Comptroller General shall be furnished such information relating to such expenditure as he may request and access to all necessary books, documents, papers, and records, relating to such expenditure in order that he may determine whether the expenditure was for payment of traveling expenses of the President of the United States." The amendment was adopted on a division vote, 53-24. 120 Cong. Rec. H5657-58 (daily ed. June 25, 1974).

On June 26, 1974, Deputy Comptroller General Keller wrote to Senator Gale McGee, chairman of the Senate Post Office and Civil Service Committee. The letter discussed S. 3647, which increased the Presidential travel expense allowance from \$40,000 to \$100,000 without explicit auditing rights for the GAO. Speaking generally about GAO

responsibilities, the Deputy Comptroller General stated that GAO's authority under the Budget and Accounting Act of 1921 was "sufficiently broad to allow such audits, access to documents and reports on Presidential expenditures to the Congress as may be necessary. However, we suggest the Committee may wish to include in its report on the bill a statement that nothing contained in it by way of special authority is intended to deny or diminish the authority of this Office to examine records and make reports." Authorization for White House Personnel, hearing before the Senate Committee on Post Office and Civil Service, 93rd Cong., 2nd Sess., at 12. The Committee included such a statement. S. Rept. 93-998, at 2.

A different interpretation appeared in a letter of July 8, 1974, from OMB General Counsel Stanley Ebner to Senator McGee.

Mr. Ebner objected to the Eckhardt amendment in the House bill, permitting GAO auditing of travel expenses. Earlier in his letter

Mr. Ebner opposed GAO auditing of the President's official representation money on the ground that it "could tend to compromise the confidential nature of these funds. The implication that oversight by GAO is necessary to insure proper use of these funds is we think unwarranted."

That opposition, he said, applied also to GAO auditing of Presidential travel funds. Id. at 24-25.

When the bill was taken up on the Senate floor, July 18, 1974, Senators Hathaway and Proxmire offered an amendment to subject the \$100,000 fund to GAO audit, proposing essentially the same language as the Eckhardt amendment adopted by the House on June 25. Senator

McGee said that the proposed language was not in the original bill because "the GAO already has that authority; but it makes a good point that we underscore the responsibility to exercise that authority, and the committee is prepared to accept that amendment for inclusion in the measure." The amendment was agreed to by voice vote. 120 Cong. Rec. S12965-66 (daily ed. July 18, 1974).

GAO's authority to audit the travel expenses, adopted by both Houses, was included in the conference report. H. Rept. 93-1249, at 4 (sec. 3). The House agreed to the conference report, but it was tabled by the Senate. 120 Cong. Rec. H7699 (daily ed. Aug. 6, 1974), and id.at S14545 (Aug. 7, 1974).

The fiscal 1976 budget includes the following amount for Presidential travel: "not to exceed \$100,000 to be accounted for solely on the certificate of the President." Budget Appendix, Fiscal 1976, at 65. Emphasis omitted.

Executive Residence, Operating Expenses. Included in these account, in recent years, has been the phrase: "and official entertainment expenses of the President, to be accounted for solely on his certificate." For example, see the appropriation bill for fiscal 1974; P.L. 93-143, 87 Stat. 514. Substantive authority for that language did not exist, creating the opportunity for a Member of Congress to make a point of order.

In 1974 the Nixon Administration proposed legislation to authorize a number of White House functions. Included in that proposal was the

following language, amending 3 U.S.C. 105: "There are authorized to be appropriated each fiscal year to the President (1) such sums as may be necessary to pay official reception, entertainment, and representation expenses, to be expended at the discretion of the President and accounted for solely on his certificate." Authorization for Staff Support in the White House Office and for the Executive Duties of the Vice President, hearing before the House Committee on Post Office and Civil Service, 93rd Cong., 2nd Sess., at 3.

During House debate, Rep. Eckhardt offered an amendment to strike "and accounted for solely on his certificate" and insert in lieu thereof the following: "Provided, That the Comptroller General shall be furnished such information relating to such expenditure as he may request and access to all necessary books, documents, papers, and records, relating to such expenditure in order that he may determine whether the expenditure was for payment of official reception, entertainment, and representation expenses." He explained that the amendment left the discretion with the President to expend the funds but provided the Comptroller General with access to determine whether the funds were spent as authorized. The amendment was agreed to by voice vote. 120 Cong. Rec. H5657 (daily ed. June 25, 1974).

OMB General Counsel Ebner objected to the Eckhardt amendment on the ground that it "could tend to compromise the confidential nature of these funds. The implication that oversight by GAO is necessary to insure proper use of these funds is we think unwarranted. The proviso should be deleted and replaced with the words 'and accounted

for solely on his certificate' as in S. 3647" (a bill introduced on June 13, 1974 by Senator Fong). Authorization for White House Personnel, hearing before the Senate Committee on Post Office and Civil Service, 93rd Cong., 2nd Sess., at 24.

When S. 3647 was reported by the Senate Committee on Post
Office and Civil Service, the report stated that it was the Committee's
position "that no special authority contained in this bill is intended
to deny or diminish the authority of the General Accounting Office
to examine records and make reports. S. Rept. 93-998, at 2. The
bill itself contained authority to appropriate each fiscal year to
the President "such sums as may be necessary to pay official reception,
entertainment, and representation expenses, to be expended at the
discretion of the President and accounted for solely on his certificate."
Reported bill, at 3-4.

Senators Hathaway and Proxmire offered an amendment to strike out "and accounted for solely on his certificate" and insert in lieu thereof the following: "except that the Comptroller General shall be furnished information requested by him relating to the expenditure of such funds and access to all necessary books, documents, papers, and records relating to any such expenditure, in order that he may determine whether the expenditure was for payment of official reception, entertainment, and representation expenses." 120 Cong. Rec. S12965 (daily ed. July 18, 1974). The amendment was agreed to by voice vote. Id. at S12966.

GAO's authority to audit those expenses was included in the conference report. H. Rept. 93-1249, at 2-3. The House agreed to the conference report, but it was tabled by the Senate. 120 Cong. Rec. H7699 (daily ed. Aug. 6, 1974), and 1d. at S14545 (Aug. 7, 1974).

The fiscal 1976 budget includes the following language under the appropriation account Executive Residence, Operating Expenses: "and official entertainment expenses of the President to be accounted for solely on his certificate." Budget Appendix, Fiscal 1976, at 66. Emphasis omitted.

Special Accounts. For a number of years, including fiscal 1973, the President received \$1,500,000 to provide staff assistance in be connection with special projects, "to/expended in his discretion and without regard to such provisions of law regarding expenditure of Government funds or the compensation and employment of persons in the Government service as he may specify..." See P.L. 92-351, 86 Stat. 477.

The following are some of the projects funded by the Special Projects appropriation during fiscal 1973: the President's Foreign Intelligence Advisory Board, the original Energy Office set up under Charles DiBona, the salary and expenses for the Interagency Classification Review Committee, the President's Consumer Advisor, the White House Summer Intern Program, the Advisory Committee on Federal Pay, and the initial expenses of the Special Action Office on Drug Abuse. 119 Cong. Rec. S15945 (daily ed. Sept. 5, 1973).

When the Administration requested funds for Special Projects for fiscal 1974, and the matter was taken up during hearings by the House Appropriations Committee, Rep. Edward Roybal asked Deputy OMB Director Frederick Malek whether the Special Investigations Unit (the so-called "Plumbers group" set up in the White House to stop security leaks) had been funded by the Special Projects appropriation. Mr. Malek replied: "I don't believe it is from Special Projects, although I could not say with certainty that no Special Projects funds at all were used in support of that group." He suggested that the unit, composed of individuals from the National Security Council and the Domestic Council, was funded from "one or another of the appropriations in the Executive Office of the President." In response to Roybal's question whether an accounting took place, Mr. Malek answered: "No, sir, I do not know the answer to that question. I do not really think there was an accounting as such for the unit. It was kind of an ad hoc group, to my understanding, and the members were drawn from various other offices with their own appropriation." Treasury, Postal Service, and General Government Appropriations for Fiscal Year 1974 (Part 3), hearings before the House Committee on Appropriations, 93rd Cong., 1st Sess., at 601.

House Appropriations deleted the \$1.5 million Special Projects request, explaining that questions had arisen concerning the propriety of some of the expenditures from that account: "The Committee, during the hearings, requested the Office of Management and Budget to provide a listing of the individual vouchers and expenditures

from the funds provided under this account. The Administration, however, declined to provide such detailed information." H. Rept. 93-399, at 25-26.

As reported by Senate Appropriations, the bill included \$1,000,000 for Special Projects, provided that the Appropriations Committees "shall be furnished quarterly with a detailed accounting of expenditures made from these funds." S. Rept. 93-378, at 21. While supporting tighter controls, Senator Walter Mondale objected to the existence of a "slush fund," particularly since the President had at his disposal another \$1 million general account for an emergency fund. 119 Cong. Rec. S15943 (daily ed. Sept. 5, 1973). His amendment to delete the \$1 million for Special Projects was rejected 36-52. Id. at S15946. However, House and Senate conferees agreed to delete the fund. H. Rept. 93-570, at 5.

Funds for Special Projects were not requested for fiscal 1975 and fiscal 1976. (See Budget Appendix for those two years, at 57 and 65, respectively.)

Appropriation Act	Account	Authority	Amount
District of Columbia	Education (President, D.C. Teachers College)	P.L. 93-140	, par san yan
Foreign Assistance*	President's Special Authority	22 USC 2364(c)	\$50,000,000
11 11	Confidential Expenses	22 USC 2396(a)(8)	50,000
u y y	Inspector General, Foreign Assistance	22 USC 2384(d)(7)	2,000
n, n	Reace Corps	22 USC 2514(d)(7)	5,000
HUD, Space, Science (P.L. 93-414)	National Aeronautics and Space Administration, Research and Program Management	P.L. 93-316	35,000
Public Works (P.L. 93-393)	Atomic Thergy Commission, Operating Expenses	42 USC 2107(b)**	
State, Justice (P.L. 93-433)	Emergencies in the Diplomatic and Consular Services)	31 USC 107	2,100,000
tt ti	Salaries and Expenses, General Legal Activities (Justice)	de est est	30,000

^{*} The four items for foreign assistance derive from the Foreign Assistance Act of 1961, as amended. They do not require specific appropriations each year.

^{**} As a result of reorganization (P.L. 93-438), AEC is now parcelled out to the Energy Research and Development Administration (ERDA) and the Nuclear Regulatory Commission (NRC). The authority for a confidential fund remains intact, available to ERDA and probably also to NRC.

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Appropriation Act	Account	Authority	Amount
State, Justice (P.L. 93-433)	Federal Bureau of Investigation, Salaries and Expenses	28 USC 537	\$ 70,000
# # # # # # # # # # # # # # # # # # #	Immigration and Naturalization Service, Salaries and Expenses	8 USC 1555	50,000
n n	Drug Enforcement Administration, Salaries and Expenses		70,000
u u	Maritime Administration, Operations and Training (Superintendent, U.S. Merchant Marine Academy)		2,500
Treasury (P.L. 93-381)	Treasury Department, Office of the Secretary, Salaries and Expenses	wo tan wa	100,000
11 11	Compensation of the President	3 USC 102	50,000
n n	White House Office, Salaries and Expenses	3 USC 103	40,000

CONFIDENT TE FUNDS, FISCAL 1975

Appropriation act	Account	Authority	Ampunt	Appropriation act Amount Authority	At.
Defense (Public Law 9) Contingencies, def Operation and mai	ente	10 USC 7252	\$2,511,013	HUO, Space, Science (Public Law 93–414): National Public Law 93–315 Aeronautics and Space Administration, research and program management.	\$35,000
		31 USC 103		Commission, operating expenses, State Justice (Public Law 93-431):	
General operating e		Public Law 93-140	2, 500	Salaries and expenses, general legal activities	
Public safety (Chie	tol Palate)	Public Law 93-140 Public Law 93-140 Public Law 93-140	2, 500 200, 000	Federal Bureau of Investigation, salaries and 23 U.S.C. 537	
Ecication (Presider	nt, Federal City College)	Public Law 93-140	1, 000 1, 000	Immeration and Naturalization Service, salaries 8 U.S.C. 1555, and expenses. Drug Enforcement Administration, salaries and	50,000 - 70,600
Education (presida Coltega). Foteian assistance: \$		chers Public Law 93-140	1, 000	Maritime Administration, Operations and Training (Superintendent II S. Merchant Marine Academ)	
President's special Confidential expens	5.05	22 U.S.C. 2354(c)	50, 000, 000 50, 000	Treasury (Public Law 93-331): Treasury Department, Office of the Secretary,	100,000
Peace Corps		22 U S.C. 2514(d)(7)	. 2. 0€0 5, 6€0	Compensation of the President 3 U.S.C. 102 White House Office, salaries and expenses 3 U.S.C. 103	50, 003 40, 609

The 4 items for foreign assistance derive from the Foreign Assistance Act of 1951, as amended.

As a result of reorganization (Public Law 93-438), AEC is now parcelled out to the Energy also to NRC.

Research and Development Administration (EZDA) and the Nuclear Regulatory Commission (IECD. The authority for a confidential fund remains intact, available to ERDA and probably

Mr. SCHWEIKER. Let me add, Mr. President, that my legislation today is in large measure a result of Mr. Fisher's tireless and creative work in this field over a period of years. Congress has been vaguely aware of unvouchered funds, and in recent years has even challenged several of the most blatant examples, on an ad hoc basis. But the study Mr. Fisher has new completed, at my request, addresses this problem comprehensively, for the first time, based on a systematic analysis of the entire Federal budget. This study clearly establishes Mr. Fisher as an expert in the intricate and complex area of Federal spending procedures, and it is an excellent example of the capability, within the Library of Congress, to evaluate with precision the most difficult area of governmental policy.

Mr. Fisher's study discloses at least four variations on the unvouchered funds technique: First, some expenditures are actually authorized and appropriated as secret funds; second, others are never authorized at all, but simply appropriated for confidential purposes; third. sometimes secret spending is authorized on a lump sum, long-term basis, without specific earmarked appropriations thereafter, so it is impossible to discover how much is actually secretly spent; finally, some latent unvouchered fund authority exists that has never been included in appropriations. These variations greatly complicate the task of trying to determine exactly how many taxpayer dollars are poured into unvouchered funds; the bewildering variety of these secret funds also dictates that reform be accomplished on a comprehensive, across-theboard basis, as my legislation contemplates.

Let me emphasize, Mr. President, there may well be areas in which confidential spending is necessary or desirable, particularly in national security related areas. But funds can be justified by voucher, and subject to GAO audit under appropriate security procedures, without jeopardizing security needs. And if there are isolated cases where security requirements demand unvouchered funds, specific statutory authority should be required. After all, the overwhelming majority of our top secret military spending is accomplished without resort to unvouchered funds-expenditures are justified, vouchers submitted, and audits permitted, with full secrecy.

My legislation simply adds the force of law to the fundamental proposition that every Government expenditure should be subject to oversight-and audit-by someone other than the official spending the money. Every successful business operates on this principle, and my bill will simply require the Federal Government to start justifying expenditures on a businesslike basis.

I also send to the desk, for inclusion in the Record, a letter which I have sent to the General Counsel of the Agency for International Development, asking the current status of the \$50,000,000 confidential fund created by section 614(c) of the Foreign Assistance Act of 1961 (22 U.S.C. 2364(c)). AID officials have indicated that some money remains unspent under this authority, and have agreed to supply my office with a precise, currrent accounting.

There being no objection, the letter was ordered to be printed in the RECORD. as follows:

U.S. SENATE, Washington, D.C., May 20, 1975. CHARLES L. GLADSON, ESq.,

General Counsel, Agency for International Development, Washington, D.C.

DEAR MR. GLADSON: As my Legislative Counsel, Dave Marston, indicated to you on the telephone, I am preparing legislation to regulate the use of unvouchered, or confidential, funds.

In this connection, I would appreciate your providing me with current background information regarding the \$50,000,000 unrouchered fund created by § 614(c) of the Foreign Assistance Act of 1961 (22 U.S.C. 2354(c)). Specifically, I would like to know the current balance of this fund, and the dates and amounts of all prior expenditures from this fund. I would also like to obtain cooles of any disclosure material which has been submitted to the Congressional officials specified in the 1966 amendment to this section.

I appreciate your willingness to assist. Thank you for your attention to this request.

Best regards.

Sincerely.

RICHARD S. SCHWEIKER, U.S. Senator.

Mr. SCHWEIKER, Mr. President, my legislation has the following basic provisions: First, all Federal funds expended must be accompanied by a voucher, describing the expenditure, unless the expenditure without voucher is specifically authorized by law.

Second, a quarterly report to Congress of all unvouchered expenditures by every agency is required, disclosing lump sums spent, statutory authority and a description of the expenditures, unless specifically provided otherwise by statute.

Third, all unvouchered expenditu by the government are made subject to GAO audit, and GAO is required to prescribe rules and regulations which will protect the security status of any classified information during audit.

Finally, any future appropriations permitting unvouchered expenditures, without specific statutory authority, will be made subject to a point of order in both the House and Senate.

I ask unanimous consent that my bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1817

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That on and after the effective date of this section, no moneys may be paid from the Treasury of the United States pursuant to a certification of an officer or employee of the United States

- (1) such certification is accompanied by. or is part of, a voucher or abstract which describes the payee or payees and the items or services for which such payment is being
- (2) the payment of funds pursuant to such certification, and without such a voucher or abstract, is specifically authorized by law.
- SEC. 2. (a) At the end of each calendar quarter ending after the elective date of this section, the head of each department, agency, or instrumentality of the Government which, or any officer or employee of wi is specifically authorized by law to exp funds pursuant to a certification, and without a voucher or abstract described in paragraph (1) of the first section, shall submit a report to the Senate and the House of Representatives setting forth the amounts expended during such quarter pursuant to each such certification, the statutory authority for

§ 403h

(a) Transfer to and receive from other Government agencies such sums as may be approved by the Office of Management and Budget, for the performance of any of the functions or activities authorized under sections 403 and 405 of this title, and any other Government agency is authorized to transfer to or receive from the Agency such sums without regard to any provisions of law limiting or prohibiting transfers between appropriations. Sums transferred to the Agency in accordance with this paragraph may be expended for the purposes and under the authority of sections 403a to 403c, 403e to 403h, and 403j of this title without regard to limitations of appropriations from which transferred;

(b) Exchange funds without regard to section 543 of Title 31;

(c) Reimburse other Government agencies for services of personnel assigned to the Agency, and such other Government agencies are authorized, without regard to provisions of law to the contrary, so to assign or detail any officer or employee for duty with the Agency;

(d) Authorize couriers and guards designated by the Director to carry firearms when engaged in transportation of confidential documents and materials affecting the national defense and security;

(e) Make alterations, improvements, and repairs on premises rented by the Agency, and pay rent therefor without regard to limitations on expenditures contained in the Act of June 30, 1932, as amended: Provided, That in each case the Director shall certify that exception from such limitations is necessary to the successful performance of the Agency's functions or to the security of its activities. (June 20, 1949, ch. 227, § 5, formerly § 6, 63 Stat. 211; June 26, 1951, ch. 151, 65 Stat. 89; renumbered July 7, 1958, Pub. L. 85–507, § 21(b) (2), 72 Stat. 337, and amended Aug. 19, 1964, Pub. L. 88–448, title IV, § 402 (a) (28), 78 Stat. 494; 1970 Reorg. Plan No. 2, eff. July 1, 1970, 35 F.R. 7959, 84 Stat. —.)

REFERENCES IN TEXT

The act of June 30, 1932, as amended, referred to in subsec. (e), is the Legislative Branch Appropriation Act, 1933, act June 30, 1932, ch. 314, 47 Stat. 382, and is classified to section 303b of Title 40, Public Buildings, Property, and Works.

CODIFICATION

Section was not enacted as a part of the National Security Act of 1947 which comprises this chapter.

AMENDMENTS

1964—Subsec. (f). Pub. L. 88-448 repealed subsec. (f). which authorized the employment of not more than afteen retired officers who must elect between civilian salary and retired pay. See section 3101 et seq. of Title 5. Executive Departments and Government Officers and Employees.

1951-Subsec. (f). Act June 26, 1951, added subsec. (f).

CHANGE OF NAME

The Bureau of the Budget was designated the Office of Management and Budget and the offices of Director of the Bureau of the Budget, Deputy Director of the Bureau of the Budget, and Assistant Directors of the Bureau of the Budget were designated Director of the Office of Management and Budget, Deputy Director of the Office of Management and Budget, and Assistant Directors of the Office of Management and Budget, respectively, by Reorg. Plan No. 2 of 1970, set out in the Appendix to Title 5. Government Organization and Employees, which also transferred all records, property, personnel, and funds of the Bureau to the Office of Management and Budget.

EFFECTIVE DATE OF 1964 AMENDMENT

Amendment of section by Pub. L. 88-448 effective on the first day of the first month which begins later than the ninetieth day following Aug. 19, 1964, see section 403 of Pub. L. 88-443.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 403a, 403e of this title and title 5 section 5363.

§ 403g. Same; protection of nature of Agency's func-

In the interests of the security of the foreign intelligence activities of the United States and in order further to implement the proviso of section 403 (d) (3) of this title that the Director of Central Intelligence shall be responsible for protecting intelligence sources and methods from unauthorized disclosure, the Agency shall be exempted from the provisions of section 654 of Title 5, and the provisions of any other law which require the publication or disclosure of the organization, functions, names, official titles, salaries, or numbers of personnel employed by the Agency: Provided, That in furtherance of this section, the Director of the Office of Management and Budget shall make no reports to the Congress in connection with the Agency under section 947(b) of Title, 5. (June 20, 1949, ch. 227, § 6, formerly § 7, 63 Stat. 211, renumbered July 7, 1958, Pub. L. 85-507, § 21(b)(2), 72 Stat. 337; 1970 Reorg. Plan No. 2, eff. July 1, 1970, 35 F.R. 7959, 84 Stat. --.)

REFERENCES IN TEXT

Sections 654 and 947(b) of Title 5, referred to in the text, were repealed, respectively, by act Sept. 12, 1950, ch. 946, title III, § 301(85), 64 Stat. 843, and Pub. L. 86-626, title I, § 101, July 12, 1960, 74 Stat. 427.

CODIFICATION

Section was not enacted as a part of the National Security Act of 1947 which comprises this chapter.

CHANGE OF NAME

The Bureau of the Budget was designated the Office of Management and Budget and the offices of Director of the Bureau of the Budget, Deputy Director of the Bureau of the Budget, and Assistant Directors of the Bureau of the Budget were designated Director of the Office of Management and Budget, Deputy Director of the Office of Management and Budget, and Assistant Directors of the Office of Management and Budget, respectively, by Reorg. Plan No. 2 of 1970, set out in the Appendix to Title 5, Government Organization and Employees, which also transferred all records, property, personnel, and funds of the Bureau to the Office of Management and Budget.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 403a, 403e, 403f of this title and title 5 section 5363.

§ 403h. Same; admission of essential aliens; limitation on number.

Whenever the Director, the Attorney General, and the Commissioner of Immigration shall determine that the entry of a particular alien into the United States for permanent residence is in the interest of national security or essential to the furtherance of the national intelligence mission, such alien and his immediate family shall be given entry into the United States for permanent residence without regard to their inadmissibility under the immigration or any other laws and regulations, or to the failure to comply with such laws and regulations pertaining to admissibility: *Provided*. That the number of allens and members of their immediate families entering

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Page 2144

E. Alternative Transmission of Confidential. Each Department having authority to classify information or material as "Confidential" may issue regulations authorizing alternative or additional methods for the transmission of material classified "Confidential" outside of the Department. In the case of material originated by another agency, the method of transmission must be at least as secure as the transmission procedures imposed by the originator.

F. Transmission Within a Department. Department regulations governing the preparation and transmission of classified information within a Department shall ensure a degree of security equivalent to that prescribed above for transmission outside the Department.

§ 402. National Security Council.

ABOLISHMENT OF FUNCTION OF DIRECTOR OF OFFICE OF EMERGENCY PREPAREDNESS

The functions of the Director of the Office of Emergency Preparedness with respect to being a member of the National Security Council were abolished by section 3(a) (2) of 1973 Reorg. Plan No. 1 effective July 1, 1973, set out in the Appendix to Title 5, Government Organization and Employees.

NATIONAL SECURITY AGENCY

Pub. L. 88-36, §§ 1--8, May 29, 1959, 73 Stat. 63, as amended by Pub. L. 87-367, title II, §§ 201, 204, Oct. 4, 1961, 70 Stat. 789, 791; Pub. L. 87-793, § 1001(c), Oct. 11, 1962, 76 Stat. 864; Sept. 23, 1950, ch. 1024, title III, § 306 (a), as added Mar. 26, 1964, Pub. L. 88-290, 78 Stat. 170; Aug. 14, 1964, Pub. L. 88-426, title III, § 306(h), 78 Stat. 430; Oct. 6, 1964, Pub. L. 88-631 § 3(d), 78 Stat. 1008; Sept. 6, 1966, Pub. L. 89-652, § 1(e), 80 Stat. 878; Pub. L. 91-137, § 2, Dec. 30, 1969, 83 Stat. 850, provided certain administrative authorities for the National Security Agency.

Sections 1 and 3 of Pub. L. 86-36 amended section 1082 of former Title 5, and section 1581(a) of Title 10, Armed Forces (as modified by section 12(a) of the Federal Employees Salary Increase Act of 1958, 72 Stat. 213),

respectively.

Section I exempted the National Security Agency from the provisions of the Classification Act of 1949, now covered by chapter 51 and subchapter III of chapter 53 of Title 5. Section 3 deleted provision permitting the Secretary of Defense to establish not more than 50 research and development positions in the National Security Agency.

Sections 2 and 4 to 8 of Pub. L. 86-36 provided as follows:

"Sec. 2. The Secretary of Defense (or his designee for the purpose) is authorized to establish such positions, and to appoint thereto, without regard to the civil service laws, such officers and employees, in the National Security Agency, as may be necessary to carry out the functions of such agency. The rates of basic compensation for such positions shall be fixed by the Secretary of Defense (or his designee for the purpose) in relation to the rates of basic compensation contained in the General Schedule of the Classification Act of 1949, as amended [now set out in section 5332 of Title 5], for positions subject to such Act which have corresponding levels of duties and responsibilities. Except as provided in subsections (f) and (g) of section 303 of the Federal Executive Salary Act of 1964, no officer or employee of the National Security Agency shall be paid basic compensation at a rate in excess of the highest rate of basic compensation contained in such General Schedule. Not more than seventy such officers and employees shall be paid basic compensation at rates equal to rates of basic compensation contained in grades 16, 17, and 18 of such General Schedule. [As amended Pub. L. 87-367, title II, § 201, Oct. 4, 1961, 75 Stat. 789; Sept. 23, 1950, ch. 1024, title III, § 306(a), as added Mar. 26, 1964, Pub. L. 88-290, 73 Stat. 170; Aug. 14, 1964, Pub. L. 38-426, title III, § 306(k), 78 Stat. 430; Oct. 6, 1964, Pub. L. 88-631, § 3(d), 78 Stat. 1008; Oct. 8, 1966, Pub. L. 89-632, \$1(e)(1), 80 Stat. 878.1

SEC. 4. The Secretary of Defense (or his designee for the purpose) is authorized to—

"(1) establish in the National Security Agency (A) professional engineering positions primarily concerned with research and development and (B) professional

positions in the physical and natural sciences, medicine, and cryptology; and

"(2) fix the respective rates of pay of such positions at rates equal to rates of basic pay contained in grades.

16, 17, and 18 of the General Schedule set forth in section 5332 of title 5, United States Code.

Officers and employees appointed to positions established under this section shall be in addition to the number of officers and employees appointed to positions under section 2 of this Act who may be paid at rates equal to rates of basic pay contained in grades 16, 17, and 18 of the General Schedule." [As amended Pub. L. 87-367, title II, § 204, Oct. 4, 1961, 75 Stat. 791; Pub. L. 87-793, § 1001(c), Oct. 11, 1962, 76 Stat. 864; Oct. 8, 1966, Pub. L. 89-632, § 1(e), 80 Stat. 878; Pub. L. 91-187, § 2, Dec. 30, 1989, 83 Stat. 8501.

"Szc. 5. Officers and employees of the National Security Agency who are citizens or nationals of the United States may be granted additional compensation, in accordance with regulations which shall be prescribed by the Secretary of Defense, not in excess of additional compensation authorized by section 207 of the Independent Offices Appropriation Act, 1949, as amended (5 U.S.C. 118h), for employees whose rates of basic compensation are fixed by statute.

"Sec. 6 (a) Except as provided in subsection (b) of this section, nothing in this Act or any other law (including, but not limited to, the first section and section 2 of the Act of August 28, 1935 (5 U.S.C. 654)) shall be construed to require the disclosure of the organization or any function of the National Security Agency, of any information with respect to the activities thereof, or of the names, titles, salaries, or number of the persons employed by such agency.

"(b) The reporting requirements of section 1582 of title 10. United States Code, shall apply to positions established in the National Security Agency in the manner provided by section 4 of this Act.

"SEC. 7. [Repealed, Pub. L. 89-554, § 8(a), Sept. 6, 1966, 80 Stat. 660.]"

"Sec. 8. The foregoing provisions of this Act shall take effect on the first day of the first pay period which begins later than the thirtieth day following the date of enactment of this Act."

§ 403. Central Intelligence Agency.

CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY SYSTEM

Pub. L. 83-643, Oct. 13, 1964, 78 Stat. 1043, as amended by Pub. L. 90-539, Sept. 30, 1963, 82 Stat. 902; Pub. L. 91-185, Dec. 30, 1969, 83 Stat. 847; Pub. L. 91-626, §§ 1-6. Dec. 31, 1970, 84 Stat. 1872-1374; Pub. L. 93-31, May 8, 1973, 87 Stat. 65; Pub. L. 93-210, § 1(a), Dec. 28, 1973, 87 Stat. 908, provided:

"TITLE II—THE CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY SYSTEM

"PART D-BENEFITS ACCRUING TO CERTAIN PARTICIPANTS

"RETIREMENT FOR DISABILITY OR INCAPACITY—MEDICAL EXAMINATION—RECOVERY

"LIMITATION OF NUMBER OF RETIREMENTS

"Sec. 236. The number of participants retiring on an annuity pursuant to sections 233, 234, and 235 of this Act shall not exceed a total of four hundred during the period ending on June 30, 1969, nor a total of twenty-one hundred during the period beginning July 1, 1959, and ending on June 30, 1974, nor a total of fifteen hundred during the period beginning on July 1, 1974, and ending on June 30, 1979." [Amended Pub. L. 91-626, § 4, Dec. 31, 1970, 84 Stat. 1873; Pub. L. 93-31, May 8, 1973, 87 Stat. 65.]

"PART J-Cost-of-Living Adjustment of Annulies -

"Sec. 291(2)

"(b) Eligibility for an annuity increase under this section shall be governed by the commencing date of each annuity payable from the fund as of the effective date of an increase, except as follows:



OFFICE OF THE SECRETARY OF DEFENSE WASHINGTON, D.C. 20301

6 October 1975

Dear Mr. Field:

The attached letter from the NSA General Counsel is forwarded in response to your letter of 26 August 1975 requesting an opinion as to whether Section 6, PL 86-36, provides a basis for denying access to some NSA records to members of Congress and the GAO.

Sincerely,

Thomas K. Latimer
The Special Assistant

Attachment

Mr. A. Searle Field
House Select Committee
on Intelligence
Room B 316
Rayburn House Office Building
Washington, D. C. 20515





NATIONAL SECURITY AGENCY CENTRAL SECURITY SERVICE FORT GEORGE G. MEADE, MARYLAND 20735

Serial: D6-86/75 23 September 1975

Mr. A. Searle Field
Staff Director
Select Committee on Intelligence
U. S. House of Representatives
Washington, DC 20515

Dear Mr. Field:

This is in response to your letter to General Allen requesting an interpretation of section 6 of Public Law 86-36.

Section 6 establishes the Congressional policy against disclosure of information concerning the intelligence and communications security missions of NSA. These vitally important functions cannot be conducted if foreign powers are aware of our sources and methods. The intent of the law, therefore, is to deny such information to other governments by limiting what appears in the public domain in the United States.

This Agency does not regard section 6 as authority to withhold information from Members of the Congress who require such information to discharge their official responsibilities. As General Allen indicated to Chairman Pike during his testimony, however, the Congress has always agreed to receive information concerning the mission and functions of this Agency in executive session.

with respect to the General Accounting Office (GAO), the Comptroller General and the Director, NSA, agreed in 1955 that a cleared GAO staff member would be assigned to NSA on a permanent basis. For 20 years, this arrangement has enabled one or more resident auditors to have access to data required to conduct compliance type audits while providing necessary security protection for NSA documents and records. Additional GAO personnel have been cleared since 1973 to permit GAO to conduct management reviews at NSA. Throughout this long-standing and excellent working relationship, the GAO has cooperated fully to protect NSA's

Serial: D6-86/75

sensitive information. The understanding between the two agencies has been that section 6 does not prohibit GAO's access to NSA information on a confidential basis, but rather that it restricts GAO's disclosure of its findings to the public at large.

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Appendix 16
CENTRAL INTELLIGENCE AGENCY
WASHINGTON, D.C. 20505

ATTACHENT VII

14 January 1975

Mr. Robert F. Keller
Deputy Comptroller General
General Accounting Office
441 G Street, N.W.
Washington, D. C. 20548

Dear Mr. Keller:

I have your letter requesting a statement of our position on the "restraints imposed by CIA's congressional oversight committees" governing the reporting of information related to CIA budgetary, organizational and personnel matters.

The restraints involved are really an extension of the limitations imposed upon the Director of Central Intelligence by the National Security Act of 1947 (Section 102(d)(3)) to protect intelligence sources and methods from unauthorized disclosure and the supporting provision of the later enacted Central Intelligence Agency Act of 1949 (Section 6).

With respect to the procedures established by the oversight committees. I must respectfully refer you to the committees themselves for an authoritative statement. I am enclosing, however, for your information, excerpts from the Congressional Record and a copy of my statement before the Special Subcommittee on Intelligence, House Armed Services Committee, which concern the protection of CIA budgetary information and the various other types of information provided by this Agency to the Congress. Also enclosed is the statutory language referred to earlier.

In closing, I would like to reaffirm the position of my staff with your representatives on this matter that our response to this inquiry should in no way be interpreted as a refusal to provide any CIA information to a Senator either directly by this Agency or by a CIA oversight committee.

Sincerely,

W. E. Colby Director

Enclosures

Excerpt from the National Security Act of 1947, As Amended

Section 102(d)

"For the purpose of coordinating the intelligence activities of the several Government departments and agencies in the interest of national security, it shall be the duty of the Agency, under the direction of the National Security Council

"(3) to correlate and evaluate intelligence relating to the national security, and provide for the appropriate dissemination of such intelligence within the Government using where appropriate existing agencies and facilities: PROVIDED, That the Agency shall have no police, subpoena, law-enforcement powers, or internal-security functions: PROVIDED FURTHER, That the departments and other agencies of the Government shall continue to collect, evaluate, correlate, and disseminate departmental intelligence: AND PROVIDED FURTHER, That the Director of Central Intelligence shall be responsible for protecting intelligence sources and methods from unauthorized disclosure;"

(Emphasis added)

Excerpt from the Central Intelligence Agency Act of 1949, As Amended

Section 6

"In the interests of the security of the foreign intelligence activities of the United States and in order further to implement the proviso of section 403(d)(3) of this title that the Director of Central Intelligence shall be responsible for protecting intelligence sources and methods from unauthorized disclosure, the Agency shall be exempted from the provisions of section 654 of Title 5, and the provisions of any other law which require the publication or disclosure of the organization, functions, names, official titles, salaries, or numbers of personnel employed by the Agency: PROVIDED, That in furtherance of this section, the Director of the Bureau of the Budget shall make no reports to the Congress in connection with the Agency under section 947(b) of Title 5."

(Emphasis added)

LAWS FROM WHICH CHAPTER SHALL BE

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fying contract, and irrespective of rights which may have accrued under the contract or the amendments or modifications thereof, if the Secretary of State determines in each case that such action is necessary to protect the foreign policy interests of the United States.

SEC. 5. Executive Order No. 10784 of October 1, 1958, and Executive Order No. 10845 of October 12, 1959, are hereby superseded.

LYNDON B. JOHNSON.

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REFERENCES TO MUTUAL SECURITY ACT OF 1954 References to the Mutual Security Act of 1954 or any provisions thereof deemed to be references to this chapter or the corresponding provisions of this chapter, if any, see section 604(b) of Ex. Ord. No. 10973, Nov. 3, 1961, 26 F.R. 10469, set out as a note under section 2381 of this

§ 2394. Reports and information.

(a) Report to Congress; information on the progress of the freedom of navigation and nondiscrimination declaration.

The President shall, while funds made available for the purposes of this chapter remain available for obligation, transmit to the Congress after the close of each fiscal year a report concerning operations (other than those reported pursuant to section 2200a of this title) in that fiscal year under this chapter. Each such report shall include information on progress under the freedom of navigation and nondiscrimination declaration contained in section 2151 of this title.

(b) Publicity of information concerning operations and loans from Development Loan Fund.

The President shall, in the reports required by subsection (a) of this section, and in response to requests from Members of the Congress or inquiries from the public, make public all information concerning operations under this chapter not deemed by him to be incompatible with the security of the United States. In the case of each loan made from the Development Loan Fund established pursuant to section 2161(a) of this title the President shall make public appropriate information about the loan, including information about the borrower, the nature of the activity being financed, and the economic development objectives being served by the loan.

(c) Requests by General Accounting Office and Congressional Committees for documents and other materials.

None of the funds made available pursuant to the provisions of this chapter shall be used to carry out any provision of this chapter in any country or with respect to any project or activity, after the expiration of the thirty-five-day period which begins on the date the General Accounting Office or any committee of the Congress charged with considering legislation, appropriations or expenditures under this chapter, has delivered to the office of the head of any agency carrying out such provision, a written request that it be furnished any document, paper, communication, audit, review, finding, recommendation, report, or other material in its custody or control relating to the administration of such provision in such country or with respect to such project or activity, unless and until there has been furnished to the General Accounting Office, or to such committee, as the case may be, (1) the document, paper, communication, audit, review, finding, recommendation, report, or other material so requested, or

(2) a certification by the President that he has forbidden the furnishing thereof pursuant to request and his reason for so doing.

(d) Presentation of programs to and notification of Congressional Committees; comparison of current fiscal year programs with those of previous year; foreign assistance data.

When requests are presented to the Congress for appropriations for fiscal year 1969 to carry out programs under this chapter, the programs to be carried out with the funds appropriated for that fiscal year shall also be presented to the Committee on Foreign Relations of the Senate, if requested by the chairman of that committee, and to the Committee on Foreign Affairs of the House of Representatives, if requested by the chairman of that committee. At the end of each fiscal year, the President shall notify the Committee on Foreign Relations and the Committee on Appropriations of the Senate and the Speaker of the House of Representatives of all actions taken during the fiscal year under this chapter which resulted in furnishing assistance of a kind, for a purpose, or to an area, substantially different from that included in the presentation to the Congress during its consideration of this chapter or any Act appropriating funds pursuant to authorizations contained in this chapter, or which resulted in obligations or reservations greater by 50 per centum or more than the proposed obligations on reservations included in such presentation for the program concerned, and in his notification the President shall state the justification for such changes. There shall also be included in the presentation material submitted to the Congress during its consideration of amendments to this chapte: of any Act appropriating funds pursuant to authorizations contained in this chapter, a comparison of the current fiscal year programs and activities with those presented to the Congress in the previous year and an explanation of any substantial changes. Any such presentation material shall also include (1) a chart showing on a country-by-country basis the full extent of all United States assistance planned or expected for each such country for the next fiscal year, including economic assistance and military grants and sales under this chapter or any other Act and sales under the Agricultural Trade Development and Assistance Act of 1954, as amended. (2) détails of proposed contributions by the United States to multilateral financial agencies, for the next fiscal year, and (3) a statement of projects. on a country-by-country basis, for which financing was supplied during the last fiscal year through the Export-Import Bank. In addition, the President shall promptly notify the Committee on Foreign Relations and the Committee on Appropriations of the Senate and the Speaker of the House of Representatives of any determination under section 2223. 2360, 2364(a), or 2364(b) of this title and of any finding, including his reasons therefor, under section 2311 or 2341(c) of this title.

(e) Recommendations to Congress.

The President shall include in his recommendations to the Congress for programs under this chapter for each fiscal year a specific plan for: country receiving bilateral grant economic assist-

<u> Approved For Release 2000 (1) 144 "CLA PRES 10096 P.0006020020010 2 - 1</u>

91TIL CONGRESS 1ST SESSION

H.R. 1523

IN THE HOUSE OF REPRESENTATIVES

JANUARY 16, 1975

Mr. Eckhardt (for himself, Mr. Dent, Mr. Seiberling, Mr. Vanik, Mr. Ichord, Mr. Matsunaga, Ms. Boggs, Mr. Mikva, Mr. Charles H. Wilson of California, Ms. Jordan, Ms. Abzug, Mr. Edwards of California, and Mr. Conyers) introduced the following bill; which was referred to the Committee on Government Operations

A BILL

- To amend the Budget and Accounting Act, 1921, to provide the Comptroller General additional authority to audit certain expenditures.
 - 1 Be it enacted by the Senate and House of Representa-
 - 2 tives of the United States of America in Congress assembled,
 - 3 That section 313 of the Budget and Accounting Act, 1921
 - 4 (31 U.S.C. 54), is amended by designating the existing
 - 5 paragraph of that section as paragraph "(a)" and adding
 - 6 thereto the following new paragraph:
 - 7 "(b) Notwithstanding any provision of law heretofore
 - 8 enacted permitting an expenditure to be accounted for

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- 1 solely on the approval, authorization, or certificate of the
- 2 President of the United States or the head of a department
- 3 or establishment, the Comptroller General shall be furnished
- 4 such information relating to such expenditure as he may
- 5 request and access to all necessary books, documents, papers,
- 6 and records, relating to such expenditure in order that he
- 7 may determine whether the expenditure was, in fact, actually
- 8 made and whether such expenditure was authorized by law.
- 9 The provisions of this paragraph shall not be superseded
- 10 except by a provision of law enacted after the date of
- 11 enactment of this paragraph and specifically repealing or
- 12 modifying the provisions of this paragraph.".

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   Monamend the Budget and Accounting Act, 1921, to provide
                         for audits by the General Accounting Office of expenditures
                         by intelligence agencies of the Government and for reports
     virues tol orderta leals here to relieve the Congress.
    -1/1 (1911) of the sorrough him smalle distribution in the Senate and House of Representa-
                         tives of the United States of America in Congress assembled,
      Hale propose opposition it of has appropriate in the state of That the Budget and Accounting Act, 1921 (31 U.S.C.
             4 '41 et seq.) is amended by adding at the end thereof the
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5 following new section:
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        7 tion 8 (b) of the Central Intelligence Agency Act of 1949
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                             (50 U.S.C. 403j(b)) or of any other provision of law, the
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209 accounts and operations of each intelligence agency of the

the House of Representatives, or any joint committee of the

- 1 Government shall be audited pursuant to the provisions of
- 2 this section and under such rules and regulations as may be
- 3 prescribed by the Comptroller General. For purposes of
- 4 this subsection, the term 'intelligence agency' means the
- 5 Central Intelligence Agency, the Defense Intelligence
- 6 Agency, the National Security Agency, the Intelligence
- 7 and Research Bureau of the Department of State, and the
- 8 intelligence components of the Department of the Treasury,
- 9 the Department of the Army, the Department of the Navy,
- 10 the Department of the Air Force, the Energy Research and
- 11 Development Administration, and the Federal Bureau of
- 12 Investigation. Such term also includes any successor agency
- , 13 or component to any of the agencies or components named
- 14 in the preceding sentence.
- 15 "(b) The Comptroller General shall arrange for security
- 16 clearances of such officers and employees of the General Ac-
- 17 counting Office as may be necessary to carry out the pro-
- 18 visions of this subsection, and the intelligence agencies shall
- 19 give the highest priority to processing such clearances.
- 20 "(c) The head of each intelligence agency shall cooper-
- 21 ate with the Comptroller General and the officers and em-
- 22 ployees assigned by him in carrying out the provisions of
- 23 this subsection.
- "(d) At the request of any committee of the Senate or
- 25 the House of Representatives, or any joint committee of the

Congress, which has legislative jurisdiction over any intelli-1 gence agency or the appropriation of funds therefor, or of 2 any subcommittee of any such committee or joint committee 3 to which such jurisdiction has been delegated by such com-4 mittee or joint committee, the Comptroller General shall 5 (A) submit to such committee, joint committee, or sub-6 committee a report of any audit of the accounts and opera-7 tions of such intelligence agency conducted pursuant to this subsection, and (B) conduct an audit pursuant to this subsec-9 tion of such accounts and operations of such intelligence agency as may be requested and submit a report thereon to 12 such committee, joint committe, or subcommittee.".

94TH CONGRESS 1st Session

5. 1817

IN THE SENATE OF THE UNITED STATES

May 22, 1975

Mr. Schweiker introduced the following bill; which was read twice and referred to the Committee on Government Operations

A BILL

- To prohibit the appropriation and expenditure of unvouchered funds unless specifically authorized by law, and to provide for reports on and audits of authorized expenditures of unvouchered funds.
- 1 Be it enacted by the Senate and House of Representa-
- 2 tives of the United States of America in Congress assembled,
- 3 That on and after the effective date of this section, no
- 4 moneys may be paid from the Treasury of the United States
- 5 pursuant to a certification of an officer or employee of the
- 6 United States unless-
- 7 (1) such certification is accompanied by, or is part
- s of, a voucher or abstract which describes the payee or

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1	payees and the items or services for which such payment
2	is being made, or
3	(2) the payment of funds pursuant to such certifi-
4	cation, and without such a voucher or abstract, is spe-
5	cifically authorized by law.
6	Sec. 2. (a) At the end of each calendar quarter ending
7	after the effective date of this section, the head of each
8	department, agency, or instrumentality of the Government
9	which, or any officer or employee of which, is specifically
10	authorized by law to expend funds pursuant to a certification,
11	and without a voucher or abstract described in paragraph
12	(1) of the first section, shall submit a report to the Senate
13	and the House of Representatives setting forth the amounts
14	expended during such quarter pursuant to each such certifica-
15	tion, the statutory authority for such expenditures, and a
16	description of the items or services for which such amounts
17	were expended.
18	(b) Subsection (a) shall not apply with respect to any
19	amount expended, if a report to Congress is required with
20	respect thereto under any other provision of law.
21	SEC. 3. (a) On and after the effective date of this sec-
22	tion, all payments pursuant to cortifications, and without
23	vouchers or abstracts described in paragraph (1) of the first
24	section, shall be subject to audit by the General Accounting

- 1 Office. Except as provided in subsection (b), any such audit
- 2 shall be conducted in the same manner as, and subject to the
- 3 same rules and regulations prescribed by the Comptroller
- 4 General of the United States as apply to, audits generally
- 5 conducted pursuant to law by the General Accounting Office.
- 6 (b) With the approval of the head of the department,
- 7 agency, or instrumentality concerned, the Comptroller Gen-
- 8 eral shall prescribe rules and regulations for audits conducted
- 9 under subsection (a) to preserve the status of all classified
- 10 information and data. The Comptroller General shall arrange
- 11 for security clearances of such officers and employees of the
- 12 General Accounting Office as may be necessary for the expe-
- 13 ditious conduct of audits under subsection (a).
- 14 (c) The head of each department, agency, and instru-
- 15 mentality shall cooperate with the Comptroller General and
- 16 the officers and employees of the General Accounting Office
- 17 assigned to conduct audits under subsection (a), and shall
- 18 make and preserve such records as may be necessary for the
- 19 conduct of such audits.
- 20 Sec. 4. (a) The following subsection is enacted by the
- 21 Congress—
- 22 (1) as an exercise of the rulemaking power of the
- 23 Senate and the House of Representatives, respectively,
- 24 and as such they shall be considered as part of the rules

1	of each House, respectively, and such rules shall super-
2	sede other rules only to the extent that they are in-
3	consistent therewith; and
4	(2) with full recognition of the constitutional
5	right of either House to change such rules (so far as
6	relating to such House) at any time, in the same man-
7	ner, and to the same extent as in the case of any other
8	rule of such House.
9	(b) On and after the effective date of this section, it
10	shall not be in order in either the Senate or the House of
11	Representatives to consider any appropriation if such appro-
12	priation, or any part thereof, may be expended pursuant to
13	a certification, and without a voucher or abstract described
14	in paragraph (1) of the first section, unless the expenditure
15	of funds pursuant to such a certification is specifically an
16	thorized by law.
17	Sec. 5. The preceding sections of this Act shall take